

United States Senate Select Committee on Ethics
Senate Code of Official Conduct







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United States Senate Select Committee on Ethics Senate Code of Official Conduct

 **SELECT COMMITTEE ON ETHICS**
Gift Rule - Considerations

- Senate Members and staff may not accept any gift unless its acceptance is permitted by the Gifts Rule (**Senate Rule 35**)
- Applies 24 hours a day/7 days a week
- Applies to any gifts you receive, even ones unrelated to your Senate employment
- Gifts Rule contains 20+ exceptions of gifts that are permissible



 **SELECT COMMITTEE ON ETHICS**
What is a gift?

The term "gift" is **broadly** defined to include -

a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, service, transportation, lodging, meal, or other item with a monetary value



 **SELECT COMMITTEE ON ETHICS**
No Gifts From Lobbyists

- Members, officers, and employees of the Senate may not accept any gift from a registered lobbyist or foreign agent, or an entity that employs or retains a lobbyist or foreign agent, unless a specific exception to the Gifts Rule applies.



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General Rule

- If not from a lobbyist or foreign agent, or entity that employs or retains a lobbyist or foreign agent, you may accept a gift if:
 - Less than \$50
 - Subject to less-than-\$100 gift annual limit from each source
 - No limit on gifts less than \$10
 - But no cash, gift cards, checks, etc.
 - "Buy-downs" prohibited





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Permissible Gifts

- Gifts from relatives
 - Includes fiancées and in-laws
- Gifts from Members and other Senate employee
 - But no gifts to supervisor or employing Senator except on special occasions
- Gifts from personal friends
 - Must meet certain criteria
- Gifts from foreign governments (\$100 in value or less)





SELECT COMMITTEE ON ETHICS

Other Permissible Gifts

- Items of little intrinsic value
 - Baseball hat, t-shirt, or < \$10 in value
- Items paid for by a federal, state, or local government
 - Includes state (public) universities and federally recognized Native American Indian Tribes
- Benefits Resulting from Outside Activities
- "Home State" products
- "Informational Materials"



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**SELECT COMMITTEE ON ETHICS**

Aggregation

- **Divisible Gifts:** You can accept one and refuse or pay for the others
- **Gifts delivered to a Senate office**
(Softball Rule): Are aggregated and deemed one gift to the Senator
- **Food delivered to an office (Pizza Rule):** Is always considered a gift to the Senator



**SELECT COMMITTEE ON ETHICS**

Attendance at Events

- "Free attendance" at certain types of events may be accepted under the rule:
 - receptions (35.1(c)(22))
 - "widely attended events" (35.1(d))
 - charity events (35.1(d)(3))
 - campaign or political events (35.1(c)(2))
 - constituent event (35.1(g)(1))
- Gift bags permitted only if otherwise acceptable under gift rule

**SELECT COMMITTEE ON ETHICS**

Handling of Impermissible Gifts

- Impermissible gifts generally must be **refused or returned**
 - Can use the Frank
 - **Perishable gifts** (flowers or food) may be discarded or donated to charity, if impractical to return
- **Or** pay fair market value
 - Tickets to sports or entertainment events: face value, or if no face value, highest ticket price for the event

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Bribes and Illegal Gratuities

- You **may not** accept a gift that is offered in connection with an official action taken or asked to be taken
- May be deemed a bribe or improper gratuity under federal criminal law (18 U.S.C. § 201)



 SELECT COMMITTEE ON ETHICS

Solicitations

- General prohibition **against** most solicitations (5 U.S.C. § 7353)
- Permissible charitable solicitations
 - Must be in your personal capacity
 - On your own time
 - Not using official resources
 - No solicitations of lobbyists or foreign agents
 - No implied official endorsement



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TRAVEL

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SELECT COMMITTEE ON ETHICS
Privately-Sponsored Travel

- Each** traveler must obtain prior, written approval from the Senate Ethics Committee
- Request must be submitted at least **30 days** before the start date of the trip
- There are significant restrictions on accepting travel expenses from private entities that **retain or employ** lobbyists or foreign agents
- Post-Travel Disclosure must be filed **30 days** after the trip
- Travel forms available on our website





SELECT COMMITTEE ON ETHICS
Pre-Approval Exceptions

- Committee pre-approval not required for travel paid for by:
 - Senate office or committee
 - U.S. federal, state, or local government entity
 - Federal campaign committees
 - Foreign government funds if approved by the State Dept. under MECEA (Mutual Educational and Cultural Exchange Act)





SELECT COMMITTEE ON ETHICS
Foreign Government Travel

- Special rules and disclosure requirements for travel funded by **foreign** governments:
 - MECEA (Mutual Educational and Cultural Exchange Act)
 - FGDA (Foreign Gifts and Decorations Act)



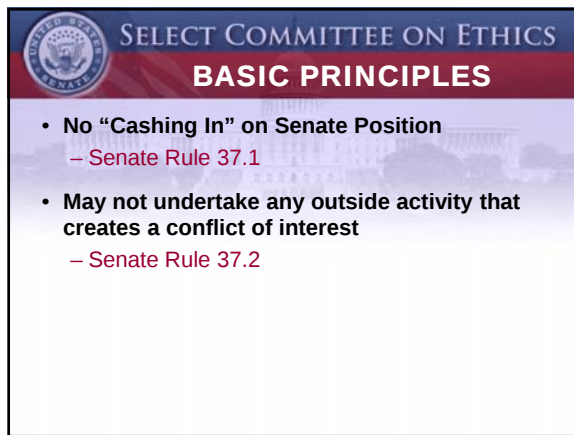
» FGDA travel must be reported to Committee on special form within 30 days

» Committee pre-approval not required for either

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 SELECT COMMITTEE ON ETHICS
Criminal Conflicts of Interest

- **18 U.S.C. § 203** – Members, officers, and employees may not solicit or receive compensation for representation in a matter in which U.S. is a party or has an interest
- **18 U.S.C. § 205** – Even absent compensation, Senate officers and employees may not represent others before the U.S. or prosecute a claim in a covered matter



 SELECT COMMITTEE ON ETHICS
Insider Trading

Members of Congress and **all** congressional staff are prohibited from using material, nonpublic information derived from their official positions “as a means for making a private profit.”



 SELECT COMMITTEE ON ETHICS
Definitions

- “**Material**” information is what a reasonable investor would want to know in making an investment decision.
- “**Nonpublic**” means confidential or not widely disseminated to the public.



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Duty of Trust and Confidence

The STOCK Act amended the securities law to make it clear that each Member or employee owes "a duty arising from the relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities."



SELECT COMMITTEE ON ETHICS

Tipping

- Insider trading violations may also include tipping.
- Tipping is passing along material, nonpublic information in violation of a duty of confidentiality.





SELECT COMMITTEE ON ETHICS

Board Service

If employed for more than 90-days and earn over \$25,000 from the Senate:

✗ **YOU MAY NOT**

- Serve as an officer or member of the board of any publicly-held or publicly-regulated company.

✓ **YOU MAY**

- Uncompensated service as an officer or board member of
 - a tax-exempt organization (IRC Section 501(c)(3)), and
 - an organization that is principally available to Members, officers, and employees of the Senate and their families.

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But Watch For...

- Federal-Funding Conflict
- Subject-Matter Overlap Conflict

SELECT COMMITTEE ON ETHICS

Affiliation--Below Salary Threshold

- Anyone earning less than \$119,554 a year and employed for more than 90 days in a calendar year **Senate Rule 37.5(a):**
 - ✗ **MAY NOT:**
 - Affiliate with outside business for purpose of providing professional services for compensation;
 - Permit their name to be used by outside business providing professional services for compensation;
 - Practice a profession for compensation to any extent during regular office hours in the employing Senate office.
 - ✓ **MAY:**
 - As long as the individual avoids affiliating with a firm, he or she may practice a profession during off hours

SELECT COMMITTEE ON ETHICS

Affiliation--Above Salary Threshold

- Anyone making at or above 120% of GS-15 = \$119,554 (CY 2013) **Senate Rule 37.5(b):**
 - ✗ **MAY NOT:**
 - Receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;
 - Provide professional services involving a fiduciary relationship for compensation;
 - Be employed by a firm that provides professional services, even if you may not be providing professional services;
 - Outside earned income limit of \$26,955.

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 **SELECT COMMITTEE ON ETHICS**
Outside Earned Income Limit

- Anyone earning a Senate rate of pay at least \$119,554 (CY 2013) or more may not earn more than \$26,955 (CY 2013) from all combined outside sources, including campaign work.



 **SELECT COMMITTEE ON ETHICS**
Rate of Pay

- For a part-time staffer, gross salary must be annualized to 100% in order to determine rate of pay for purposes of the outside earned income limit.
 - For example, a staffer working half-time (50%) who earns an annual gross salary of \$60,000 is earning a rate of pay of \$120,000 (the amount he or she would have earned if he or she had worked full time for that year).



 **SELECT COMMITTEE ON ETHICS**
Honoraria Ban

- Honorarium is a payment for an appearance, speech, or article (other than a book).
- Absolute ban on honoraria received by Members, officers, or employees.
- Committee may not grant waivers for honoraria.



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 **SELECT COMMITTEE ON ETHICS**
Charitable Contribution in Lieu of Honoraria

- May have a contribution donated directly to § 501(c)(3) charity (\$2,000 max)
 - Payment may not benefit the Senator or employee.
 - Honoraria must be reported on a financial disclosure report.
 - If donation is from a lobbyist or foreign agent, it must be reported to the Secretary of the Senate within 30 days.



 **SELECT COMMITTEE ON ETHICS**
Teaching

- Members and certain staff may not teach for compensation unless they first get written permission from the Committee.
- Teaching income is subject to the outside earned income limit.



 **SELECT COMMITTEE ON ETHICS**
IPO's

Members, officers, and employees making at least \$119,554 may not purchase securities that are part of an initial public offering ("IPO") in any manner other than generally available to the public.



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 SELECT COMMITTEE ON ETHICS
Legislative Action

- May not use Senate position to introduce legislation to further one's own pecuniary interest
Senate Rule 37.4



 SELECT COMMITTEE ON ETHICS
Committee Staff Holdings

- Committee staff earning **more than \$25,000 a year** and employed **more than 90 days** ...must divest himself or herself of any substantial holdings which may be directly affected by the actions of the employing committee



 SELECT COMMITTEE ON ETHICS
**Spouse or Immediate Family Member
Lobbying Restriction**

If a Member's spouse or immediate family member is:

- a registered lobbyist,
- employed or retained by such a registered lobbyist, or
- employed by an entity that hires or retains a registered lobbyist,

the Member must prohibit any lobbying contact between their staff and spouse or immediate family member.



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SELECT COMMITTEE ON ETHICS
Negotiating for Future Employment

- Senators and staff are permitted to seek new jobs while still employed by the Senate, subject to limitations:
 - Promise of future employment may not affect performance of Senate duties
 - No use of Senate resources and must perform search on one's own time
 - Disclosure obligations for Members and staff paid at annual rate of \$119,554 or more for CY 2013





SELECT COMMITTEE ON ETHICS
Rules for Disclosure of Employment Negotiations for Senators

- Senators who want to negotiate or have an employment arrangement for jobs involving lobbying must wait until *after* their successor has been elected.
- For any other future private employment, Senators must file a signed public statement with the **Secretary of the Senate** within 3 business days of beginning the negotiations or arrangements for private employment or compensation.
- Senators who file the disclosure form must also recuse themselves whenever there is a conflict of interest or an appearance of a conflict with respect to the private entity identified on the form, and notify the **Ethics Committee** in writing of such recusals.



SELECT COMMITTEE ON ETHICS
Rules for Disclosure of Employment Negotiations for Staff

- Senate employees paid \$119,554 must notify the Ethics Committee in writing within 3 days after they start negotiating or otherwise making arrangements for future employment or compensation with a private entity and recuse themselves from official matters involving prospective private employers whenever there is a conflict of interest (or an appearance of one).
- Senior staff (**employees making \$130,500 or more**) must also recuse themselves from legislative matters that create a conflict of interest (or an appearance of one).

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**SELECT COMMITTEE ON ETHICS**

Definitions

- A “negotiation” is the discussion of terms and conditions of employment after an offer has been made and the Senator or staffer is considering accepting.
- A “employment arrangement” begins when an offer has been made and accepted.



**SELECT COMMITTEE ON ETHICS**

Post Employment Restrictions—Members

Members:

- May not lobby the Senate for two years. **Senate Rule 37**
- May not communicate or appear before the House or Senate on behalf of third party seeking official action for two years. **18 U.S.C. § 207**



**SELECT COMMITTEE ON ETHICS**

Post Employment Restrictions—Senior Staff

Employee paid at least 75% of a Member salary (\$130,500 for CY 2013):

- May not lobby the Senate for one year. **Senate Rule 37**
- May not communicate or appear before the Senate on behalf of third party seeking official action for one year. **18 U.S.C. § 207**

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Post Employment Restrictions—All Other Staff

Staff paid less than 75% (\$130,500 for CY 2013) of a Member's salary:

- May not lobby employing office or committee for one year. **Senate Rule 37**
- **Leadership staff:** May not lobby any Member or staff of the leadership of the same party (including the personal staff of the leadership Member employing the staffer) for one year after leaving the Senate payroll.
- **Substantive Committee Responsibilities:** A staffer in a personal office who performs substantive responsibilities for a committee in which the staffer's supervising Member sits may not lobby the committee Members and staff for one year from the date the staffer last performed services for the committee. Such a staffer would also be banned from lobbying the employing Member and the Member's personal office for a year.



SELECT COMMITTEE ON ETHICS

Current Members and Staff

- May not aid former Members and staff in violating the post-employment restrictions
- No informational request exception
- Handling prohibited contacts
 - Check the Secretary of the Senate's list
 - Contact the Ethics Committee for guidance
 - Advise the former Member or staffer to contact the Ethics Committee for guidance



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FINANCIAL DISCLOSURE

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**SELECT COMMITTEE ON ETHICS**

Financial Disclosure Filers

- Members, officers, staff paid **\$119,554**, and candidates are required to annually disclose personal financial interests, including investments, income, and liabilities.
- Political Fund Designees, Fellows, and Detailees



**SELECT COMMITTEE ON ETHICS**

Financial Disclosure Report

- Members, officers, staff paid over **\$119,554** and candidates are required to annually disclose personal financial interests, including investments, income, and liabilities.
- Financial disclosure provides the mechanism for monitoring and deterring conflicts.
- Filing Deadlines: May 15th and within 30 days of commencing or ending Senate employment.



**SELECT COMMITTEE ON ETHICS**

Periodic Transaction Report

Anyone making at least \$119,554 must report transactions of stocks, bonds, commodities futures, and other assets in excess of \$1,000 *no later* than 30 days after receiving notification of the transaction, but in *no case later* than 45 days after such transaction.

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**SELECT COMMITTEE ON ETHICS**

Definition

Notification occurs when a filer receives a written communication that a transaction has occurred, such as when a filer receives an email or other written confirmation from his or her broker or financial advisor that a transaction has occurred, or when a filer receives a monthly account statement reflecting any transaction that exceeds 1000.

**SELECT COMMITTEE ON ETHICS**

Exceptions

You do not need to disclose periodically transactions of:

- Publicly traded mutual funds and exchange traded funds (ETFs);
- Real property;
- Bank accounts;
- U.S. Treasury securities; and
- Any other investment that meets the definition of an excepted investment fund:
 - Widely Held (more than 100 participants);
 - Publically traded or widely diversified; and
 - No ability to control the financial interests held by the fund

**SELECT COMMITTEE ON ETHICS**

Mortgages

Senators must disclose their mortgages for personal residences on their annual financial disclosure report.

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 **SELECT COMMITTEE ON ETHICS**
Political Fund Designees = PFDs

- Senator may Designate up to 3 PFDs
- At least 1 PFD must be in DC
- PFDs must have salary of at least \$10,000
- PFDs must file annual financial disclosure report regardless of salary level



 **SELECT COMMITTEE ON ETHICS**
PFDs May Handle Funds

- principal campaign committee of the employing Senator
- for a committee or organization established and controlled by a Senator or group of Senators (*with the employing Senator's permission*)
- state or local committee of a national party (*with the employing Senator's permission*)

 **SELECT COMMITTEE ON ETHICS**
Campaign Activity Restrictions

- No Campaign Activity in a Federal Building -18 U.S.C. § 607



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 **SELECT COMMITTEE ON ETHICS**
Exceptions for Certain Campaign-Related Activities

Limited minimal overlap of campaign and official activity:

- Official scheduler
- Official press secretary
- Referrals to campaign office



 **SELECT COMMITTEE ON ETHICS**
Mixed Purpose (Official and Campaign)

- Letters
- Emails
- Phone Calls



- Travel expenses may be pro rated on a reasonable basis to accurately reflect the purpose of the trip
- FEC Contact:
Duane Pugh @
(202) 694-1006

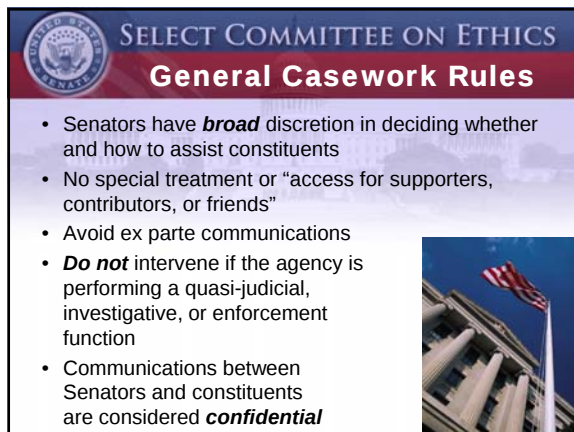
 **SELECT COMMITTEE ON ETHICS**
Moratoria

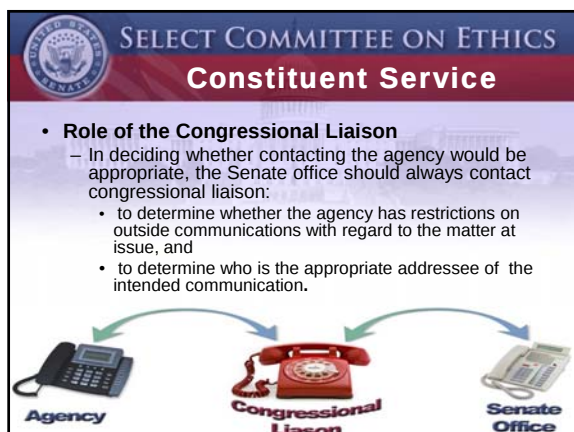
- 60 days prior to a primary or general election, a Senator is prohibited from certain activities.
- No moratorium if election is uncontested and no legal possibility for a write-in candidate.

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 SELECT COMMITTEE ON ETHICS

**PROHIBITION ON
UNOFFICIAL
OFFICE
ACCOUNTS**

 SELECT COMMITTEE ON ETHICS
Prohibition on Unofficial Office Accounts

No private donations, cash or goods or services, are allowed in support of official Senate activities or expenses.



 SELECT COMMITTEE ON ETHICS
Free Interchange of Information

- Senator may seek and accept advice on legislative issues from outside organizations.
- Outside organizations may provide ideas, information, memoranda, research, legislative language to the Senator as long as it is unsolicited.
- BUT Senate office may not direct or control an outside organization to do Senate work.

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SELECT COMMITTEE ON ETHICS
"Official" or "Officially-Connected"
Expenses

"Official" or "Officially-Connected"
Expenses may be paid from:

- Appropriated funds;
- Senator's personal funds; or
- Campaign funds





SELECT COMMITTEE ON ETHICS
Restrictions of use of Campaign Funds

- May not use campaign funds to:
 - Supplement franking allowance (may only use appropriated funds);
 - Supplement mass mailing allowance (\$50,000);
 - Pay employee salaries (may only use appropriated funds or Senator's personal funds);
 - Pay for office space (may only use appropriated funds);
 - Buy office equipment and any associated information technology services (use only appropriated funds);
 - Support home state office (may only be paid for with appropriated funds); or
 - Pay Committee expenses (may only be paid for with appropriated funds).
- If campaign funds are used to purchase something, campaign funds must be used to maintain it.



SELECT COMMITTEE ON ETHICS



FRANKING

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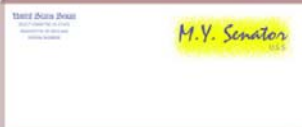
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SELECT COMMITTEE ON ETHICS

Franking

- The frank is the facsimile signature of a Senator in corner of envelope that takes the place of stamp and authorizes sending OFFICIAL material through the domestic mail without prepayment of postage.
- Each Senator is **personally** responsible for ensuring that the use of the frank complies with the law, Senate Rules and regulations and interpretive rulings of the Ethics Committee.





SELECT COMMITTEE ON ETHICS

Frankable Mail

- Matters of public concern and Congressional actions
- Official newsletters and press releases
- Questionnaires seeking public opinion
- Mail between D.C. and state office
- Mail to other Members of Congress and all other legislators
- Congratulations on a **public distinction**
- Federal regulations or federal publications containing general information
- Nonpartisan voter registration or election information
- Biographical material or pictures in federal publications or in direct response
- Whole or part of the Congressional Record
- Public service material (created with government appropriated funds)
- Seeds and agricultural reports





SELECT COMMITTEE ON ETHICS

Nonfrankable Mail

- Laudatory or complimentary to a Member on a personal rather than official basis
- Holiday greetings unless they are an incidental reference in otherwise frankable mail
- Senator's family activities other than in connection with official duties
- Solicitations for political support or financial assistance
- Personal mail
- Condolences sent to the public
- Congratulations on a **personal distinction**



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Mass Mailing

- Mass Mailings must be franked. A mass mailing is a mailing of 500 or more substantially similar pieces of mail within one session of Congress, regardless of whether the pieces are mailed at same time or separately.
- Mass mailings may not be sent 60 days prior to a primary or general election. All Senate personal offices are prohibited from sending mass mailing 60 days prior to a biennial election.





SELECT COMMITTEE ON ETHICS

Contact the Committee

If you have any questions, please
contact the Committee

(202) 224-2981 (*main*) (202) 224-7416 (*fax*)

mailbox_office@ethics.senate.gov (*email*)



All Advice is Confidential